



**THE ATTORNEY GENERAL  
OF TEXAS**

**GERALD C. MANN**

**ATTORNEY GENERAL**

**AUSTIN 11, TEXAS      February 23, 1939**

Hon. Tom F. Coleman, Jr.  
County Attorney  
Angelina County  
Lufkin, Texas

Opinion No. O-327  
Re: Increase in deputy's salary  
and approval by auditor where  
not provided for in budget.

Dear Sir:

We acknowledge receipt of your letter of February 9th and wish to thank you for the enclosure thereto attached.

Originally, you submitted two questions for our opinion but we note from the letter and copy of an order of the Commissioners' Court attached that the question of the new Commissioners' Court's refusal to approve the raise in salary of the chief deputy county clerk voted to begin January 1, 1939 and made by order prior thereto, has become moot in that said salary increase appears to have been approved and acted upon.

No doubt, the question still has a bearing on the matter now up for consideration in your county and which we believe is covered by the following question taken from the facts submitted:

"Where the Commissioners' Court votes an approval of, or raises the salary of the county clerk's chief deputy in January and refuses to change the budget to take care of this increase in salary, should the county auditor refuse to issue a warrant to cover same?"

We respectfully call your attention to an opinion, No. O-07, written by this Department, dated January 6, 1939, and addressed to Hon. J. D. Looney, County Auditor, Boston, Texas, a copy of which is hereto attached.

In view of the above opinion as it might apply to your problem, it is the opinion of this Department that only in cases where the finances of the county clearly will not permit and the auditor has legal grounds upon which to base his refusal to pay such increase voted in a deputy's salary

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outside the limits as fixed in the budget would the auditor be authorized to refuse such payment.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Wm. J. R. King

Wm. J. R. King, Assistant

WmK:AW:wb

ENCLOSURE

APPROVED:  
/s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS